OBSERVATIONS

ON THE

LAND IMPROVEMENT LOANS ACT, 1883.

"I think it must be admitted that the taxation of wells not constructed by the State is a deviation from the broad principles of the Bombay Survey."—*Sir Barrow Ellis.*

"We draw all we can out of Gujarat, do not expend one shilling in works of irrigation, and tax wells besides. I cannot think that is the way to be fore-armed for the evil hour, which may come when we least expect it."—*Major C. J. Prescott, late Superintendent, Revenue Survey, Gujarat.*

"The amount of annual assessment to be immediately sacrificed is small compared with the remainder of the assessment."—*Mr. W. G. Pedder.*

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INTRODUCTORY NOTE.

I WILL add one word to what has been stated at length in the following pages, and that is, that the survey orders at present in force in respect of the revision of assessment on lands irrigated from wells are :—(1) That in the case of old wells constructed before the first settlement, all special water assessment should be abandoned, and the maximum *jerayet* rate alone levied ; and (2) that in the case of new wells constructed subsequent to the new settlement, the ordinary dry crop rate should be imposed without any addition whatever on account of the new wells.* The fullest publicity has been given to the wishes of Government in this respect by means of instructions and circular orders from district Collectors to Mamlatdars, from Mamlatdars to the village Talaties or accountants, and the Talaties have been called upon to convey assurances to the great body of the peasantry in this Presidency that no increase of assessment will result on the revision of the rates in consequence of the construction of wells. A further step, taken last year in respect of the definition of 'built wells,' was also in the direction of a more liberal treatment of those who introduced improvements in the shape of wells in Gujarat. The survey orders did not extend exemption from the benefits claimable by law on account of 'improvements' to (1) masonry wells, unless a masonry trough and top (*Thala Mathala,* were added to them, and to (2) wells constructed of tiles and mud (instead of bricks and mortar), usually known as '*Khundia*' wells. Both these descriptions of wells were classed under 'kachá' wells, and were charged from Rs. 6 to Rs. 12 a year for each 'Kos' or 'water-bag' employed. The result was that just at a time when the ryots' means for constructing the trough and top of a well were exhausted, and when he needed some help in the form of an untaxed return on his investment, down came the Survey Officer to impose a tax on quite an arbitrary interpretation of an 'improvement.' To Mr. Sheppard, the present Commissioner, N. D., belongs the credit of ruling that all 'built' wells of every description (and whether provided with 'top or trough or not) shall be treated

* *Vide* Nairne's Handbook, page 158, Second Edition,

as '*pucka*' wells and as such shall be exempt from taxation. Now any such notion as that the wells so constructed on the plighted faith of Government would be liable to be taxed hereafter under section 107, proviso (*b*), of the Land Revenue Code would only tend to shake the confidence of the ryots, and discourage future investments of capital in them. So far no opportunity has been presented to owners of new wells to test the value of Government assurances already given, since the thirty years' leases in this Presidency have not expired. But the period of expiry is fast approaching. Next year will probably witness the commencement of revision operations in Dholka—the first of the Gujarat settlements made under the late Sir George Wingate's system. The mischief, therefore, resulting from the justification which the doctrine of the assessability of improvements will afford to settling officers in their assessment operations in districts in which cultivation has reached the extreme limit of 95 per cent., may be easily conceived. Hence the importance of determining the right policy cannot be overrated. I earnestly hope that the warning note sounded in the following pages will not go for nothing, but that the liberal policy announced by the authors of the Land Improvement Loans Act, and the encouragement therein held out to improvers of land through the aid of State loans, will be extended equally to owners of wells sunk by the help of private capital, and that the weighty considerations which have influenced the Government of India in carrying out this measure will be carefully borne in mind when dealing with the well-assessment policy during the forthcoming revision operations in the Bombay Presidency, if that policy is to 'inaugurate a 'new era of improvements, or give an irresistible impulse to the 'building of wells.'*

Since the accompanying paper was written, certain articles on this very subject have appeared in the *Bombay Gazette* newspaper. And they seem to have led to the publication of Resolutions of the Bombay Government on non-assessment of improvements in this Presidency in the case of wells dug by the ryots at their own cost. I have the kind permission of the Editor of the

* Speech of the Hon'ble Mr. Quinton in the Debate on the Bill.

Bombay Gazette to reproduce the articles and republish the Government Resolutions in an Appendix to this Paper. These Resolutions of the Bombay Government throw additional light on the question and emphasize the view taken here of the effect of section 107, proviso (*b*) of the Land Revenue Code. The Resolution, dated the 10th November, 1881, for instance, declares that Government are now prepared to give a 'general' assurance that clause (*b*) will not be applied to wells dug from private capital. In the same breath, however, it is asserted in the Resolution that "Government are competant at any "time to declare how they interpret that clause, and to "notify that it will not be held to apply to any parti-"cular class of improvements." Is it to be supposed, then, that Government will blow hot and cold according to the varying circumstances of the hour under the temptingly elastic and vague wording of clause (*b*) in deciding what improvement shall, and what improvement shall not, really be said to have consisted of having utilized a natural advantage? The Famine Commission thought that such departmental orders and rules, good as they were, were liable to retractation and change of view, and suggested that the course best calculated to remove all doubts and anxiety of the ryots in the matter was to come to a 'precise and permanent understanding' and ratify that understanding by law. The Hon'ble Mr. J. B. Peile, who was a Member of the Famine Commission, would no doubt have set the Commission right if he had thought that the suggestion of the Commission was based on an incorrect view of clause (*b*). Again, it is to be remembered that when so able a revenue officer as the Hon'ble Mr. Hope had not in mind these Resolutions of the Bombay Government (he certainly made no allusion to them in his speech in the debate at Simla) in the discussion on the subject, how is a poor villager in a remote district to know what the departmental orders of the Government for the time being are? The villager's best referee and adviser is generally the local pleader and his advice, founded chiefly on clause (*b*) of section 106 of the Land Revenue Code, would probably be that it was at least doubtful whether his client will be exempted from taxation or not on account of the new well proposed to be sunk by him. To

set this doubt at rest all that Government need do is to introduce a short amendment of the Land Revenue Code, recasting clause (*b*) and embodying the very concession which Government are now prepared to make in a departmental Resolution. The effect of this procedure will be to give a fresh impetus to the sinking of new wells in the Presidency. That no system of irrigation is so well adapted as well-irrigation to the purposes and slender means of the peasantry in this country is shown by the remarkable testimony borne to it by so keen and competent an observer as Sir James Caird in his recent work on India. "Near Nariad," says Sir James, "there is very fine cultivation "from wells, tobacco and garden crops beautifully farmed, "and every sign of prosperity among the people. Their hold- "ings are separated by low hedges ; *every one has his well, "and, where this is attainable and the water good, I believe "no other irrigation in India can compare with it.* Each "man can use it when and how he pleases, and as he must "keep bullocks for the labour of his land, and he and his "family do most of the work, they hardly feel the cost of "lifting the water. Their villages are generally tile-roofed, "the people are better clad, and their bullocks are stronger "and bigger than I have yet seen. All this is the result of "'well' irrigation on a better soil, with a climate seldom so "extreme in drought as to cause severe scarcity, never famine."* Curiously enough, it was in respect of the Nariad settlement that thirteen years ago I discussed the policy of well-assessment in my "Notes on Kaira." And it is no small satisfaction to me to see that official opinion is veering in the right direction. I have little doubt that a great deal will have been effected in the direction of promoting well-irrigation in this Presidency if the change in the law now so anxiously desired is carried out.

JAVERILÁL UMIÁSHANKAR YÁJNIK.

105, Dady Sett's Agiary Lane,
Bombay, 3rd January, 1884.

* INDIA : *The Land and the People.* By Sir James Caird, K.C.B., F.R.S., pp. 160-170.

LAND IMPROVEMENT LOANS ACT.

The debate which took place at Simla, on the 10th October 1883, relating to the Land Improvement Loans Bill, was one of unusual interest and importance. Very interesting information was given regarding the present position of the Agricultural Banks scheme, which, it was stated, had formed the subject of considerable correspondence with the Bombay Government. Sir Steuart Bayley mentioned that the subject had been thrashed out, and that most of the details were about to be submitted to the Secretary of State. Pending an expression of his opinion upon the scheme no further action will be at present taken. Meanwhile, the Select Committee on the Land Improvement Loans Bill resolved to omit from that Bill all mention of Agricultural Banks which require, it is stated, a separate Act to itself on account of the great importance and the difficulty of the various questions involved. The measure, therefore, finally introduced by the Honorable Mr. Quinton, was one of a simpler character than was originally intended, and is meant merely to consolidate and amend the law relating to loans of money advanced by the Government for agricultural improvements.

The necessity for amending the existing Law which is contained in Acts XXVI. of 1871 and XXI. of 1876 was, as Mr. Quinton said, forcibly pointed out by the Famine Commission, which drew attention to the present defects in the system, and insisted on the great importance of the whole subject as affecting the agriculture of the country. Amongst the causes alleged for the failure of the previous Acts a prominent cause is stated by the Famine Commissioners to be the uncertainty of the landowners whether agricul-

tural improvements effected by means of Government loans are or are not to form the ground for increased assessments at the expiration of the present periods of settlement. The Government of India clearly recognised the fact that a doubt of this kind strikes at the very root of the policy which they are so anxious to encourage. That there is ample ground for the doubt is clearly shown by the fact that the practice relating to the assessment of improvements differs widely in different parts of India, and has in no place except the Bombay Presidency been placed on a precise and permanent understanding by means of a formal legislative enactment. The Supreme Legislature have, in the present Act, clearly recognised that all such doubts must be finally removed before the Act will be extensively used for purposes of agricultural improvement. If agricultural improvements are to form the ground of additional taxation, it is perfectly certain that such improvements will never be very extensively made, and will never, in fact, be made at all except under the pressure of necessity. Now it is quite clear that the question raised by the Famine Commissioners goes very far beyond the immediate question which was discussed by the Legislative Council, *viz.*, how best to encourage the agricultural classes to make use of Government loans for the purpose of agricultural improvements. The question raised goes in fact to the very root of the whole land policy of Government; for if the taxation of improvements or the fear of such taxation has already operated to prevent application to Government for loans it is certain that enormous injury has already been inflicted on the agriculture of the country. If a cultivator has been deterred from applying to Government for a loan it is equally certain that he has been deterred from applying to his ordinary money-lender for the purpose. In other words, if the facts stated by the Famine

Commission be correct, and I see no reason to doubt them, it is certain that a check of the most serious character has already been given throughout the country to agricultural improvements of all kinds. That any such check should have been given seems to me to be deplorable, bearing in mind the responsibilities of the State as supreme landlord and the vital importance of doing everything in its power to promote confidence and to encourage improvements. That such a state of things should call for the prompt interference of the Legislature must be patent to any one who reflects on the present condition of Indian agriculture as pourtrayed by the Famine Commission, and, more especially, by Sir James Caird, in his separate report to the Secretary of State, dated 31st October 1879, and headed "Condition of India." The present Land Improvement Loans Bill marks, then, the first serious attempt of the Supreme Government to grapple with a problem of a formidable character, *viz.*, how to encourage effectually agricultural improvements in India without parting with the State right to share sooner or later in the value of such improvements. A more difficult and more embarassing problem no Government ever had to solve, and it is perfectly clear from the tenor of the whole debate that the subject is one on which official opinion is very sharply divided. Nothing can be easier than to assert on behalf of the State the general principle of the assessability of improvements and to frame elaborate provisions to secure the interests of the State. But it must be remembered that there are two parties to every bargain, and unless the cultivator can be induced to accept the terms offered the Government will be left practically in the same position as it is at present, *viz.*, that few improvements will be made. Is it likely, I ask, that any intelligent cultivators will apply for Government loans when they are told that some of the highest officials in the

land assert, in the most explicit way, that all improvements are assessable in accordance both with native practice and sound principles. It is notorious that the views expressed by the Hon'ble Mr. Hope are in entire accordance with the practice that has been followed in all parts of this Presidency. Both in the Deccan and Gujarat agricultural improvements have been systematically assessed, and it is now perfectly well known throughout the length and breadth of the land that the Government do not consider themselves to be precluded from taking full advantage of all improvements which have been effected during the currency of the existing settlements. Whether the policy of the local Government is good or bad we need not for the present consider, but the policy and practice of the Government being what it is, how, I ask, can any reasonable person imagine that much private capital will be invested in improvements under the provisions of the new Act? It is notorious, in all parts of the Presidency, that agricultural improvement in Government villages is practically at a standstill, except in cases where pressure of population and sheer necessity has compelled the landholder sorrowfully and grudgingly to spend his own money, well knowing that his improvements will only result in a heavier burden being imposed on him at the next period of settlement.

The practice followed in this Presidency appears to correspond very closely with the practice which is generally pursued elsewhere in India. There appears to be a consensus of agreement that the cultivators ought to be encouraged to make improvements, and there is also a tolerable consensus that the State landlord ought to share sooner or later in the benefit of all such improvements. Regarding the best means of encouraging improvements and the most convenient mode of protecting the State rights there is apparently much difference of opinion in the

Supreme Council. Mr. Crosthwaite proposed,—and the suggestion is one of great value— that all improvements made during the currency of existing settlements should be registered. "The value of the improvements was to be settled "by a Committee of arbitrators and registered together "with the improvement and the area covered by it. Then "he divided his improvements into two classes, one of which "might be specified as quasi-permanent and costly, the "other more temporary and less costly improvements, and "partaking of the nature of reclamation. The first class "Mr. Crosthwaite proposed to exempt altogether. The "second class he proposed to exempt absolutely for five years "and thereafter to let him recoup his interest by deduct-"ing 6¼ per cent on cost of improvement from the full "assessment of the land." Mr. Crosthwaite thought that it would be possible to legislate on these lines; but when his proposal came to be discussed it was found that his proposals clashed seriously with the opposing official view that "the Government is a joint proprietor with the landholder, "and is, by ancient law and custom of India, entitled to a "share in the produce of every bigah of land." Sir Steuart Bayley explained very clearly what he called the rival theories on the subject of tenants' improvements in India. The first main difficulty, he said, on the subject of Mr. Crosthwaite's proposals was, perhaps, one of theory; "it "was, in fact, to reconcile two conflicting theories—what I "may call the English theory and the Indian theory. The "English theory has regard to the relation between lessor "and lessee, and from this point of view the English theory "naturally urges that any increase in the letting value of "the land caused by the lessee should be his and benefit "him, and that he should get this benefit in the shape "either of an increased length of lease on the old terms, or "compensation for the unexhausted portion of his improve-

"ments. The Indian theory, if I may say so, disregards "altogether the relation between lessor and lessee and looks "upon Government as a joint proprietor with the landholder, "and that Government, as joint proprietor, is, by the "ancient law and custom of India, entitled to a share in the "produce of every bigah of land. The logical deduction "from the English point of view would be that the land-"holder should have, as a permanency, the full benefit of "any increased value caused by his improvement. Even "here I think myself that the fact of the landholder in "India having a permanent right of occupancy in his land "really divides off his position in a very marked way from "that of the leaseholder in England whose position is a "temporary one. The natural outcome of the Indian point "of view is that when the Government, as the sleeping share-"holder in the land, has provided that the improver should "receive full interest for his money spent on improvement, "and that he has been recouped for his original outlay, "thereafter the Government should retain its right to a "share in the improved produce of the soil."

Sir Steuart Bayley went on to say that these two theories were no doubt antagonistic, but he thought that it might have been possible to come to a reasonable compromise between them. He concurred with Mr. Crosthwaite that public policy required that the Government should do all in its power to encourage permanent improvements of a valuable kind rather than look to future increase of revenue. But they were then met by the further difficulty that it was difficult to distinguish satisfactorily the two classes of improvements which Mr. Crosthwaite desired to distinguish. Finally the idea of legislating upon Mr. Crosthwaite's proposals was abandoned, because, it was seen to be inextricably mixed up with the very much larger question with regard to the whole principle of resettlement in Northern

India which was at that time under reference to the Secretary of State. In referring that question to the Secretary of State, we are told that the Government of India expressed in very general and broad terms its desire that improvements effected by landholders should hereafter be exempted from assessment, and in reply the Secretary of State in equally general and broad terms expressed his thorough approval of the principle. The general question, including the special point of assessing improvements, is now, we are told, under the consideration of the local Governments. It is clear from the very interesting speech of Sir Steuart Bayley that the extreme importance of the matter at issue is now fully apprehended by the Supreme Government; and the question of assessing improvements being now under consideration by the Secretary of State and all the local Governments, no time can be more opportune for a reconderation of the whole subject.

Pace the Honorable Mr. Hope I assert that the "Indian theory," described by the Honorable Sir Steuart Bayley, is a most mischievous and deceptive theory, and one that is opposed to all sound principles. The State landlord can of course claim in behalf of the State whatever the Supreme Government chooses; but it is the duty of that Government to consider the practical tendency and effects of these ingenious theories. I assert that the so-called Indian theory, even as a theory, is monstrous, and that its effects are simply ruinous. I ask any one having the faintest acquaintance with practical agriculture how far it is in practice possible for the State landlord to ascertain, with any reasonable certainty, whether the cultivator has received full interest for the money spent on improvement, and whether he has been fully recouped for his original outlay or not. If it be impossible, as I assert that it is, to obtain this information, then the theory is a mere theory, the truth

of which there is no means of testing; and to make such a theory the basis of State policy is, in my opinion, simply disastrous, for in practice it simply amounts to this that whether the amount expended in improvements has been recouped or not, additional taxation is imposed. Again, the essential aim and object of expending capital in agricultural improvement is to create a fund for further improvement, but by the very terms of the theory, as described by Sir Stewart Bayley, this fund is to be swept into the coffers of the State as soon as the original outlay plus interest has been recouped. Is it, I ask, likely that any sensible person will voluntarily invest his capital on these terms? I think that Sir Steuart Bayley has performed an important public service in explaining in clear and intelligible terms what this so called "Indian theory" really is, and now that it is expressed in all its nakedness, I trust that the matter will not be allowed to rest where it now is, and that the Supreme Government will take steps to satisfy itself as to the real working of this marvellous theory in practice. I confidently anticipate that if it will do so, some startling revelations will be made; and it is quite possible that the inquiry will lead to the growth of a more rational and healthy view on the vital subject of the State's claim to make agricultural improvements the basis of enhanced assessments, or a pretext for imposing additional taxation.

There are many indications in the debate that official opinion is by no means unanimous on the subject of this Indian theory. The rival English theory of tenants' improvement, as explained by Lord Ripon and Sir Steuart Bayley, has several very influential adherents in the Supreme Council; and it is quite clear that some compromise of the rival theories is absolutely necessary if any consistent and rational policy is to be pursued. The more liberal views expressed

by Lord Ripon, Sir Steuart Bayley and Mr. Crosthwaite, seem to be the views of the Government of India as a whole; and it is gratifying to know that the Government of India and the Secretary of State seem to be unanimous in the desire that improvements effected by landholders should hereafter be exempted from assessment. That this principle is not only thoroughly sound but one of vital importance to the agriculture of the country, I entertain no doubt whatever; and now that the question of assessing or exempting from assessment agricultural improvements has been fairly raised, I trust that no time will be lost in coming to a definite decision on the point, and in taking effectual steps to ensure that one definite and consistent practice is observed by all the local Governments. It is one thing, be it remembered, to enunciate correct principles, and quite another to give effect to them, more especially, when the new doctrine may happen to run counter to the views and policy of a certain school of officials who are practically pledged to their own system. The Honorable Mr. Hope stated in the clearest and most explicit terms that the Bombay principle of assessing improvements was "not only in accordance with old custom in India, but is "also sound in itself, and in accordance with well recog-"nised principles of political economy." It is not at first sight easy to see what common ground can well be occupied by those who assert and those who deny the principle that agricultural improvements ought to be assessed. If the general view, stated by the Government of India and the Secretary of State that improvements should be exempted from assessment, be right, it would seem to follow irresistibly that the practice of the Bombay Government and the view expressed by the Honorable Mr. Hope is wrong. Sir Steuart Bayley read to the Legislative Council the Bombay law on the subject of assessing improvements as it now

stands in sections 106 and 107 of the Bombay Revenue Code. He did not make any comments on the practical working of the Bombay rules, as stated in the two sections quoted, and it was left for the Honorable Mr. Hope to express the opinion that the proviso contained in section 107 (*b*) stated very clearly and satisfactorily the true doctrine which underlay the whole subject of improvements effected by the State tenants. The proviso declares that nothing contained in section 106 shall be held to prevent a revised assessment being fixed "with reference to the value of any natural advantage when the improvement effected from private capital and resources consists only in having created the means of utilising such advantage." Proviso (*c*) goes on to declare that a revised assessment may be fixed with reference to any improvement which is the result of the ordinary operations of husbandry.

It would, I think, have startled the Council to have realised what is the undoubted truth, that all the ordinary agricultural improvements within the capacity of a Bombay peasant farmer are, in fact, covered by one or other of the extremely elastic provisos (*b*) and (*c*) inserted in section 107 of the Bombay Land Revenue Code. In other words so skilfully has the law been framed as to include all improvements that are ordinarily feasible with the means at command of an Indian peasant, and the fullest possible effect has now been given under legislative sanction to the principle asserted by the Honorable Mr. Hope that all agricultural improvements are by custom and sound principle assessable.

These facts show, I think, very clearly that the theory and practice of the Bombay Government is in complete accord. The theory and the rules state that all agricultural improvements are assessable, and assessed they are

accordingly. The only other point of importance that occurs to me in connection with the existing Bombay rules is this, that section 107 provisos (*b*) and (*c*) practically stultify section 106 which, I may observe, represents the former law as it stood in section XXX. of Bombay Act I. of 1865. What is the use of solemnly proclaiming that revised assessments shall not be fixed with reference to improvements made from private capital and resources when in the next breath you go on to say that improvements of a certain class, which are in practice the only improvements which a peasant farmer can make, are assessable? The concession, which is thus solemnly made with one hand, is immediately after taken way with the other; and the only result of this legal subtilty is, I fear, to create general discontent and infinite disappointment.

Now let us consider for a moment what are the commonest forms of agricultural improvement and see how an enterprising agriculturist is likely in practice to be treated under the Bombay Rules. The commonest and, in many parts of India, the most useful direction which agricultural improvement can take is the construction of wells and minor irrigation works such as dams, bunds, tanks, water lifts, &c., and the conversion of dry crop into garden land. The Famine Commissioners remarked that

"There are large portions of the country to which, from various causes, it is physically impossible that irrigation should ever be given by canals, and in these protection against drought must depend, apart from rain-fall, on tank or well irrigation. In many localities the irrigation supplied by canals requires to be supplemented at certain seasons by wells, and in some cases the character of the crop and the soil is such that wells are, on the whole, preferable as a source of water supply to canals. Many hundreds of thousands of acres in every province are now under well cultivation, and the question of how a more general construction of wells may be carried out with State aid as a means of protecting the country from famine, and

of the degree of protection which is thus attainable, has on various occasions been a subject of discussion."

The extension of well cultivation is one of those matters of public State policy which has always attracted much attention, and is universally considered to be of first rate importance. A large portion of the Bombay Presidency is admirably adapted by physical conditions for the construction of wells, and it might reasonably be supposed that every encouragement would officially be given to this useful and substantial form of agricultural improvement. But unfortunately the ease with which this form of improvement can in many places be carried out, and the great profits which well cultivation usually brings has presented too great a temptation to the survey officers of Government, and their ingenuity has accordingly been exercised to devise a plan for intercepting some portion of the profits for the benefit of the public treasury. It was found that Sir George Wingate, the greatest settlement authority on the Bombay side, had laid down the broad position that the State as landlord had a right to claim a royalty on the water of the wells sunk into Government lands; and if the State could justly claim a royalty it was considered to be entitled to levy that royalty in the shape of increased taxation on the land watered by such wells.

Sir George Wingate's reasons for this doctrine are stated in the following terms :—

"The application of the cultivator's capital to the construction of a new well or the repair of an old one does not *create* water for irrigation but simply provides means for raising the water stored in the subsoil to the surface and applying it to the land. The well is the production of the cultivator's capital, but the water is not. The operation is exactly analogous to the opening of a new mine, until which time the subterranean mineral lies useless to man and yields nothing to the proprietor of the land in which it exists. But when once capital supplied the means of bringing the mineral to the surface in a form

suitable to man's wants, it immediately acquires value, and yields rent or royalty to the proprietor of the land from which it is extracted. Water, like minerals, is a subterranean product of great value in tropical climates, and therefore capable of legitimately yielding a rent to the lord of the soil who is the Government in the present case."

And this doctrine has been generally accepted by the Bombay Government, and has been very extensively acted upon by the officers of the Settlement Department. The doctrine in question finally received public legislative sanction in section 107 (*b*) of the Land Revenue Code, and, as before stated, was quoted with approval by the Honorable Mr. Hope as expressing with clearness and precision the sound view of the subject.

It is only just to the Bombay Government to point out that they have not always insisted on acting up to the full rigour of the official theory; and there are signs that more liberal counsels have occasionally prevailed. In proof of this I would invite attention to an important Resolution passed by Government on the resettlement of the Indapur Taluka under date 27th March 1868.* In this Resolution Sir George Wingate's royalty theory was discussed by Government in the following terms, which clearly show that, in the opinion of Government, the question at issue is not only a question of abstract right but one of public policy.

* Bombay Government Selections, New Series, No. CVII p. 202-204.

"In regard to special taxation of wells, it is said with truth that water is, like mineral wealth, fairly taxable by the landlord when used by the tenant. His Excellency in Council, however, considers that the first principle of its taxation should be that which governs our taxation of the land itself, that is, the capability of being used rather than the use itself. If water of good quality could be easily available near the surface, it is more reasonable to tax such land by a light additional rate, whether the water be used or not, than to lay an oppressively heavy tax on those who expend capital and labor

in bringing the water into use. There is, however, a point at which this principle must be modified, for when the land is such that when water is not brought to it, it will bear nothing, and when water is used it will yield a fine crop, then even a light tax in the former case is impossible. Of this class are the sandy tracts in the Konkan, which under the influence of water become cocoanut gardens. It must be held that the right of Government to levy a rate by virtue of the water below the surface is in abeyance, or dormant, till the water is produced, but it is doubted greatly, even in this extreme case, whether it is politic, though it may be asserted to be just, to levy more than would be leviable from first class rice ground, which enjoys also the benefits of water, not created, it is true, by the tenant, but utilized by means of his preparation of the ground."

Notwithstanding the wise and politic decision contained in the passage above quoted a very different course has been followed in other parts of the Presidency. In Gujarat especially the taxation of wells led in 1868 to much complaint and public correspondence. The whole subject was elaborately examined in a pamphlet entitled "Notes on Kaira" published at the *Times of India* office in 1870, and it was on that occasion pointed out by the writer that Sir George Wingate's theory was itself based upon an important misconception, and that the policy of taxing wells in Gujarat was simply ruinous. That the views expressed on the subject of well taxation in Gujarat are substantially sound is, to some extent, at least attested by the fact that they are in complete accord with the general views of some of the ablest Bombay Settlement Officers. Here is what Major Prescott, Settlement Officer for Gujarat, has to say on this vitally important matter :—

"We attempt to defend the false principle of taxing capital expended in sinking wells by the argument that as the produce of garden land is greater, so the share thereof due to Government should be in the same proportion. I have never been able to understand the force of this argument, or to recognise the right which the State claims to a higher assessment on lands irrigated by wells constructed out of the hard earned savings of the cultivators ; and with the liberal

provisions of section XXX. of the Survey Act patent to all, I see immense difficulty in convincing the ryots of the justness of our *present* claim on their wells. Why, sir, have we such difficulty in making the incidence of the well assessment equitable—whether we put it on the bag, the well or the soil? Simply, I submit, because we cannot make right in practice what is wrong in principle.

"I foresee that if any great calamity should overwhelm this Province—drought or famine, for example—our mode of taxing private capital expended in sinking wells, would be condemned by all sound economists.

"Colonel Baird Smith was of opinion (Report para. 101) that to keep an agricultural population above actual want, under all vicissitudes, one-third *at least* of the cultivated land should be provided with the means of irrigation.

"Now what is the present position of Neriad, in this respect the most highly irrigated Taluka in this Province?

"Of a cultivated area of 128,219 acres, 11,930 only or a little over 9 per cent (Government and alienated inclusive) is irrigated. Less than *one-tenth* of the whole available area.

"We draw all we can out of Gujarat, do not expend one shilling in works of irrigation, and tax wells besides. I cannot think this is the way to be fore-armed for the evil hour, which may come when we least expect it.

"I am well aware we cannot abandon this source of revenue at one fell stroke, but it is clear we must do it 30 years hence—when, as no new wells will be taxed, we cannot, possibly, levy a Kussur any longer on the old.

"I hope, therefore, notwithstanding the heavy profits which, I am well aware, accrue to all well-owners in Neriad and Borsad, we may be induced to look on this source of revenue as condemned to abandonment after 30 years, and prepare ourselves for it by imposing a moderate Kussur now on principle.

"If we do not, the Kussur will abandon us, for cultivators will take care never to repair old wells, or to prevent them falling to decay, well knowing that if they sink new ones, in the place of repairing old, they will be free of taxation for all time." (See letter from Major C. J. Prescott, Superintendent, Revenue Survey and Assessment, Gujarat, to A. Rogers, Esq., Revenue Commissioner, N. D., No. 37

of 31st January 1867, printed at pp. 192 to 198 of Bombay Government Selections, No. CXIV. new series, 1869, paras. 14 to 22.)

In other reports, printed in the same volume of Selections, it will be seen that the doubts expressed by Major C. Prescott on the policy of taxing wells in Gujarat were shared, to a great extent, by Mr. W. G. Pedder, now Revenue Secretary at the India Office, and by the then Revenue Commissioner, the present Sir Barrow Ellis, Member of the Indian Council. The latter in writing to Government, 30th March 1865, submitted to Government for consideration the propriety of abandoning in future survey settlements in Gujarat and Khandeish all assessment upon wells; and in this important letter he used the following words which have a most important bearing on the subject now under discussion :—

"I think it must be admitted that the taxation of wells not constructed by the State is a deviation from the broad principles of the Bombay Survey. All wells built hereafter by individuals will be free from taxation ; it seems hard that wells, similarly built by individuals, but before the advent of the Survey, should be placed at a disadvantage and subjected to heavier taxation for no reason save that their owners were in advance of their neighbours in employing their capital in agricuture.

"On the other hand, it is quite consistent with the principles of the Survey that if the inherent qualities of the soil be such that water is produced by digging for it within a few feet of the surface, this capability should be taxed as well as other elements of fertility."

Mr. Ellis' scheme was ordered to be tried experimentally, but broke down under the circumstances explained in the correspondence. The controversy finally closed by a new system of well assessment locally known as the Bagayat Kassur system, being proposed by Major Prescott, and sanctioned by Government. The effects and bearing of this system were fully examined in the pamphlet already referred to, entitled "Notes on Kaira," in which it was

shown conclusively that the tax was unequal, arbitrary and unfair, and would infallibly impose a bar to all future agricultural improvement in Gujarat. The paper, it may be observed, was written just at the time when the Tukavi Act of 1871 had been introduced; and the following passage taken from it appears to have a very direct and obvious bearing on the present agricultural Loans Bill and the important debate now under review.

"The system of *Tuccavi* advances has more or less been in vogue in this Presidency, but of late it has hardly been much availed of, and it is doubtful whether, with the terms proposed for the securities to be offered to Government, many cultivators will at all be induced to receive any advances. But what the Government cannot hope to carry out by such offers, it can succeed remarkably well in promoting irrigation works by abandoning the cess altogether as being iniquitous in principle and obnoxious in operation, and as acting as a positive check to agricultural improvement. The removal of this most unpopular impost will at once afford a stimulus to every cultivator in Gujarat and the Dekkan, and will do more for advancing agriculture than any other inducements which Government may hold out. This can be done without much sacrifice of revenue. At any rate any sacrifice of revenue herein involved will be more than amply compensated for by the impetus which the measure will give to garden cultivation, so sadly neglected at present in Gujarat, notwithstanding the peculiar facilities that are there for it."

The foregoing review appears to establish very clearly 1st, that the Bombay principle of assessing improvements, whether right or wrong, has been bitterly complained of, is by no means unanimously accepted by some of the ablest officers who have served in Bombay, and is at any rate disputable. Notwithstanding these notorious facts the principle of assessing wells has now received formal legislative sanction under the ingenious technical section which declares that revised assessments may be fixed with reference to the value of a natural advantage, such, for instance, as a water-bearing stratum, when the improvement effected

from private capital and resources consists only in having created the means of utilising such advantage, *e.g.*, by the construction of wells.

Under the circumstances explained it will at once be seen that the Famine Commissioners appear to be under some misapprehension regarding the practice of Bombay with reference to the important subject of well assessment, nor is there, as supposed by the Commissioners, any rule in this Presidency "that the assessment of land irrigated from a permanent well should not be liable to enhancement on account of the well at any revision of the settlement provided the well is kept in efficient repair." (See Famine Commission Report, Part II., p. 169, para. 5.) Had any such rule been recognised, the Neriad Settlement would have taken a very different shape, and the whole of the complaints and correspondence on well assessment might have been spared.

A similar process of reasoning will apply *mutatis mutandis* to all minor irrigation works suitable to the capacity of ordinary tenant farmers. Whether the work be the construction of a dam, a bund, a water-lift or what not, in all cases it may be predicated with certainty that the cultivator is merely utilising some natural advantage, the gift of God. He applies his private capital and resources to the means of utilising such advantage, and by so doing falls into the trap laid for him by clause (*b*) of section 107. If the Honorable Mr. Hope or any one else thinks that the assertion of the right of taxing all improvements for the benefit of the State will promote improvements, then all I can say is that he has a very strange idea of human nature, and of the motives which usually actuate peasant cultivators; but the matter is, I submit, too obvious for useful argument, and there are few persons, we imagine, who will dissent from Major

Prescott's sound view that it is impossible for the settlement officer to make right in practice what is radically wrong in principle. The disastrous effects of taxing wells cannot, in my opinion, be made more clear than in Major Prescott's own words :—

"Colonel Baird Smith was of opinion (Report para. 101) that to keep an agricultural population above actual want, under all vicissitudes, one-third *at least* of the cultivated land should be provided with the means of irrigation.

"Now what is the present position of Neriad, in this respect the most highly irrigated Talooka in this Province.

"Of a cultivated area of 128,219 acres, 11,930 only or a little over 9 per cent. (Government and allienated inclusive) is irrigated. Less than *one-tenth* of the whole available area.

We draw all we can out of Gujarat, do not expend one shilling in works of irrigation, and tax wells besides. I cannot think this is the way to be fore-armed for the evil hour, which may come when we least expect it."

If the facts be as stated by Major Prescott and they are undeniable, who can doubt that the Bombay mode of taxing private capital expended in well-sinking would be condemned by all sound economists? The suggestive passage above quoted I must be allowed to set against Mr. Hope's surprising assertion "that an enormous increase of "wells and other improvements of a like nature involving "immense expenditure of money," had been made by State tenants under the Bombay system. No such satisfactory result was recorded by the Famine Commissioners, and I cannot conceive to what district or what class of persons Mr. Hope's remarks can possibly apply. Either Major Prescott or Mr. Hope must, I submit, be under an entire misapprehension; and as the matter is one of great public importance it is to be hoped that the Government of India will satisfy itself regarding the reality of the improvements alleged to have been effected by State tenants under the

Bombay system. One word of caution is, however, no doubt necessary. Under the former law, as expressed in Sec. XXX. of Act I. of 1865, corresponding with Sec. 106 of the Land Revenue Code, it is stated categorically that improvements made from private capital and resource should not form the ground of revised assessment. No doubt a certain amount of capital has been expended in different places on the faith of this assurance which was made, be it observed, about the time when the correspondence above quoted took place. Those who so invested their capital and resources could never have dreamt that this assurance, which they must have regarded as their agricultural charter, would ever have been modified, as it has been modified, by the subsequent provisions contained in section 107 of the Land Revenue Code; and if any attempt be made, at any revised settlement, to tax the capital so invested, there can be little doubt what the persons concerned will then think about it. The subsequent proviso (*c*) declares that a revised assessment may similarly be imposed with reference to any improvement "which is the "result of the ordinary operations of husbandry." A more elastic and convenient phrase could not easily have been invented. It will cover all the ordinary kinds of reclamation, and will include not only the conversion of unassessed waste into arable land, but all farming operations which fall under the general term of high farming. This comprehensive rule explicitly declares that all such improvements will be liable to taxation. Can any more fatal and suicidal land policy be possibly conceived than this? Not only are all improvements of the nature of irrigation works made taxable, but proper farming is, under the operation of the rule quoted, absolutely prohibited except at the price of the land being made subject to a revised assessment at the absolute discretion

of the settling officer. It is true that Sir Philip Wodehouse in 1874 insisted upon laying down fixed limitations to the discretion of the Survey officers, but these limitations are not embodied in the law, and merely depend upon the policy of the Government for the time being. Sir Philip Wodehouse also sanctioned a scheme by which unarable lands, included in the area but excluded from the assessment at the first settlement of a ryots' holding, were to be exempted from all additional taxation for the reason that the conversion of unarable into arable land was due to the labor of the ryot, and ought therefore to be regarded as an improvement exempted from taxation within the meaning of Section 30 of Bombay Act I. of 1865. But that liberal ruling, which seems to have been based both on good law and good sense, was overruled by the Government of India, doubtless on the ground that a liberal interpretation of Section 30 might form a very inconvenient precedent. The action of the Government of India on that occasion could, under the existing law, be amply justified, as the case is clearly covered, by proviso (*c*) attached to Section 107 of the Land Revenue Code.

The facts quoted abundantly show that the present law and practice of assessing all agricultural improvements has not been adopted in Bombay without a struggle. There are many traces in the official correspondence of liberal and reasonable counsels on this extremely important subject. But the broad fact remains that the moderate counsels have been overruled, and that the existing law on the subject of assessing improvements gives the most absolute power and discretion into the hands of the settlement officer. How this discretion is in practice exercised is abundantly clear from the revision settlements in the Southern Mahratta country where improvements have been

systematically taxed and the assessments enhanced enormously.

I have discussed in some detail the Bombay law and practice because, in my opinion, it furnishes the best illustration in India of the "Indian theory" of tenant's improvements described by Sir Steuart Bayley. My general opinion of this theory has been already stated in no ambiguous terms, and the best test of the merits of this theory is to be found in the ruinous effects which have already taken place. Major Prescott pointed out in 1867 that in Neriad the most highly cultivated Taluka in Gujarat, of the whole cultivated area less than 1-10th was irrigated, although the facilities for well irrigation are, perhaps,unique in Western India, and although 1-3rd of the whole area ought to be protected by such irrigation. This one fact will afford some measure of the disastrous consequences which have already attended the Bombay policy of taxing improvements, and the slightest reflection must convince any reasonable person that the avowed policy of taxing improvements can only have one result, *viz.*, to prevent improvements from being made, and to damage seriously the agriculture of the country. The taxation of improvements is, we believe, a principle entirely foreign to Wingate's system. The true doctrine on the subject is that which is laid down in Section XXX. of Act I. of 1865, which declares that a "revised settlement shall be "fixed not with reference to improvements made by the "owners or occupants from private capital and resources "during the currency of any settlement under this Act, but "with reference to general considerations of the value of "land, whether as to soil or situation, prices of produce or "facilities of communication."

The present system which is legalised by the provisos (*b*) and (*c*) attached to section 107 of the Land Revenue Code is, I believe, historically a mere innovation, and the

invention of a recent school of settlement officers, who have made much use of one ambiguous passage of the late Sir George Wingate. I believe that that eminent officer would have been the first to repudiate the unscrupulous use which has been made of his well known comparison between water wealth and mineral wealth ; and the general right of Government to levy a royalty on water. He would undoubtedly appeal to the rule embodied in section 30 of Act. I. of 1865 as containing his matured views on the subject, and would have been puzzled to understand how so reasonable and sensible a rule could possibly have been distorted into its present shape. The recent enhancements so much complained of in Bombay have been caused mainly by taxing improvements, and if improvements were really exempt, as provided by Act I. of 1865, section 30, and section 11 of the new Land Improvement Loans Bill, there would be practically very little occasion for any resettlement to be made at all. There are several other ways of providing for the legitimate interests of Government, besides the particular way adopted in Bombay of taxing improvements. Nothing can be simpler than to arrange for a reasonable percentage increase of existing rates at the expiration of the present settlements in all cases in which any increase at all is deemed to be desirable with reference to general considerations of any increase in the current value of land, whether as to soil or situation, prices of produce or facilities of communication. If this percentage increase were a fixed increase determined by Government on the general considerations above mentioned, and publicly announced not later than five years before the expiration of the current settlements, enormous relief and advantage of every kind would accrue to all classes connected with the land. All business relations could then adapt themselves with some degree of certainty to the

new conditions, and there would be some sort of guarantee that the assessment would not be arbitrarily raised on grounds which not one person in a hundred is in a position to understand.

No doubt the question of the best mode of securing the interests of the State is a question of the greatest interest and importance both to Government and the community. I yield to no one in a desire to protect in every way the legitimate interests of the State. All that I contend for is that the particular way adopted in Bombay is a bad way and simply ruinous to the interests of agriculture. The broad question at issue in this correspondence has in one shape or another been perpetually debated since the commencement of British rule; and to all who are interested in the subject I would invite attention to the interesting and suggestive correspondence which passed in Bengal in connection with the settlement of the ceded and conquered Provinces. (See Bengal Revenue Selections, Vol. III., 1826.) Among the papers which have been printed in these interesting selections is an admirable minute by Mr. Stuart, dated 18th December 1820. (Selections, Vol. III., page 214.) In this minute a very ingenious plan is proposed for reconciling as far as possible the public interests and those of the cultivator by means of a fixed but very moderate annual rate of increase, subject to the proviso that no levy of the proposed increase shall commence or having commenced shall continue "whenever the proprietor shall be able to show that he does not derive from his estate a sum equal to 30 per cent upon the gross income."

The proposed scheme is thus stated by Mr. Stuart :—

"In order to correct one great evil of the system, that is, the frequency of the settlements, without adopting the opposite extreme of an assessment fixed in perpetuity, settlements for lives, or for very long periods have been proposed.

"Such a plan would unquestionably be highly advantageous to the

zemindars, compared with short settlements ; but seems, notwithstanding, open to formidable objections.

" If the uncertainty of the demand be not remedied, a long settlement will only be a respite from the disastrous consequences which may ensue upon a new settlement ; when at last it may come ; and the zemindars must live in constant dread and anxiety of the approach of that fatal period.

" The precarious condition of families upon such a tenure is manifest. They would often, no doubt, rise to ease and affluence during the long interval of exemption from increase : but when the expiration of their term should arrive, they would be reduced to comparative poverty and distress.

" By frequent settlements, the demand, however severe, is imposed by degrees, and men become gradually inured to the burthen. They have seen nothing better, and their wretchedness is, at least, not aggravated by comparison with a happier state.

" With long settlements, it is to be feared that prosperity and happiness might often be called into being, only to be annihilated by a new assessment. A new settlement might fall upon families as sudden ruin, reducing them from an ample to a scanty income, destroying the comforts and enjoyments which affluence had yielded, and repressing all the habits and notions which it had formed. Such a system might often operate as a confiscation or revolution.

" Viewed in the most favourable light, lands held under a long settlement would be only regarded as a mere leasehold tenure, which, instead of improving by the lapse of time, would every day be losing a part of its value.

" After much reflection on the subject, a plan has occurred to me which would enable the Government to reserve its rights, and afford, at the same time, a reasonable protection to the interests of the landholders.

" Supposing, then, a settlement of an estate to have been made upon the best information procurable, I would suggest that it be further made liable to a small fixed annual proportion of increase to the Jumma.

" Let it be declared, for instance, that from a given time after the settlement (say ten years), estates shall be liable for a given period (say twenty years) to an annual increase (at the rate of, say, one-half per cent) upon Jumma of Government that such rates of annual

increase shall, at the end of the first twenty years, be advanced an additional half per cent, and so on every successive twenty years.

"Provided always, that no levy of the proposed increase shall commence, or having commmenced shall continue, whenever the proprietor shall be able to show that he does not derive from his estate a sum equal to thirty per cent. upon the gross income.

"If we are allowed to indulge hopes of the advancement of the country in prosperity and wealth, such a plan would hold out a prospect of an important addition to the public revenue, within a period not excessive for a Government to contemplate, with an unlimited power of raising that revenue, in course of time, to any amount required by the public exigencies, and compatible with the resources of the lands.

"I contemplate it as a further important advantage of the scheme, that it would, in effect, save the Government from the serious measure of assigning its dues from the land for ever, and irrevocably to one, and that comparatively a confined class of the community; and that it might thus prevent the evils and inconvenience with which that sacrifice might be attended. It is obvious that if, in the progress of time, the Government should find itself enabled to dispense with any portion of its land revenue, it might make an abatement from its demand in favour of the chief engagers of any intermediate classes, or of the great body of the cultivators, as experience might show, was necessary for the interests of any particular class, or conducive to the general good of the whole community.

"Any sacrifice of this nature might be made conditionally, reserving to the Government the power of re-imposing any portion of the land revenue which might have been remitted, if the exigencies of the State should require the revenue to be again raised.

"Any portion of the revenue which the Government could spare might, from time to time, be usefully employed in relieving estates too heavily assessed.

"To the chief engagers with the Government the benefits of the plan, as compared with any mode of assessment short of a perpetual settlement, seem apparent.

"It would protect the landholder from that great source of dread and anxiety, the constant recurring demand of a wholly uncertain increase.

"He would know that, at the worst, he could be called on only for a very small annual fixed increase, by the payment of which

he would have it in his power to defend himself from all inquisitions into his profits, and from all pretences of the native officers to exact bribes from him on that ground.

"The plan would also, at the commencement, give the landholder all the advantages of a long settlement, in proportion to the period of respite allowed after the final adjustment of his Jumma. I have suggested ten years for that period; but, of course, any longer one may be adopted if judged expedient.

"As the increase would require a life-time to rise to importance, it would not be contemplated by the individuals with dread or alarm. Its gradual progress would likewise prevent its inconvenient operation on the habits and condition of families.

"To these benefits of the smallness and slowness of the demand, and of the entire certainty of the amount, is to be added the pledge, that no increase whatsoever shall be levied, so long as the landholder shall not derive from his estate a sum equal to thirty per cent. upon the gross income.

"The landholder would thus be sure that his income could never be reduced below a considerable portion of the assets of his estate, while he would be permitted to enjoy the whole excess beyond that proportion not absorbed by the progressive increase. Now, looking to the slow rate at which the increase would proceed for a long course of years, an estate must be very incapable of improvement which would not yield a growing profit to the landholder for a long course of years after the settlement. If so, the plan would hold forth to the landholders the most powerful incentive to improvement.

"It may be alleged against the plan, that it does not, more than that of periodical settlements, promise the landholders an absolute protection from uncertain exaction; since, if errors should be committed, the percentage of increase may from the beginning encroach on the profit left to the landholder at the settlement and that in time, though, indeed, in a long time, the encroachment might become of serious amount; that entire confidence could not be placed in the value of estates over which an uncertain demand would thus depend.

"The objection is, no doubt, valid to its extent: but admitting that the most moderate reliance could be placed on the integrity and ability of the British public officers, it will be seen that its extent is very limited.

"When it shall be considered how slight the amount of over-exaction from this cause must be, which could take place at any given

period, how long a time must elapse before errors could accumulate into importance, and how frequent must be the opportunities for correction, it will be conceded that the evil from this source could never be formidable in itself, nor even produce alarm or mistrust in the minds of the people.

" The scheme is further open to what may be thought a far more serious objection. Allowing ten years for the period of exemption from increase after the formation of the settlement, the progress of the increase would be as follows :

" At the end of thirty years the increase might be ten per cent. on the original Jumma ; at the end of fifty years, thirty per cent. ; at the end of seventy years, sixty per cent. ; of ninety years, one hundred per cent. ; at the end of a century the increase might exceed the original Jumma, and obviously must finally overtake any possible augmentation in the assets of estates. The whole profits of estates above thirty per cent. of the assets would be subjected to the demand of the Government, and the Zemindars, in respect of the excess, placed in the situation in which they stand.

" It would be easy to diminish the force of this objection, by proposing a more complicated arrangement ; but it would seem preferable to leave the matter to the prudence of future Governments. The plan aims at encouraging the landholders to look forward with hope and confidence for nearly a century ; and, ultimately, to restore unimpaired to the Government the unshackled power of taxation and of remission of taxation. To attempt more would be to exceed the reasonable bounds of prospective legislation.

" I do not know that my plan may not have to encounter an objection of a very opposite nature to that of its being unfavorable to the landholders. Whether it may not be urged against it, that the improvement of the land revenue, which it promises, is inadequate to the reasonable expectations of the State.

" To such an objection I should first answer, that I only propose the scheme as applicable to estates which may be judged ripe for permanency of settlement. That the scheme is not meant to apply to estates on tracts, which hold out any just and solid hope of improvement consistent with a large and rapid augmentation of the revenue.

" But I should also observe, that a great portion of the ceded and conquered provinces is indisputably very heavily assessed : that,

according to all concurring opinions, neither the means, nor perhaps the feelings of the landholders and agricultural population of those provinces, will admit generally of any but the most moderate and gradual increase of the revenue. To the gr ter part of those provinces, therefore, I hold to be applicable a scheme which balances between the two extremes of renouncing for ever the essential prerogative of imposing or remitting taxation, or of continuing, by undefined exaction, to press upon the resources, the hopes, the spirits, and the affections of the people."

It seems to me that some plan of this sort will go far to meet the admitted difficulties of the situation, and now that the whole question of re-settlement is under discussion, I think that it may not be inopportune to invite attention to what seems to me to be a very valuable suggestion. In carrying out this or any other plan that may be suggested, many difficulties will no doubt be found, but Mr. Stuart's scheme has at any rate the cardinal merit of efficiently protecting all interests concerned, and of obviating all necessity for revision survey and re-settlements.

In conclusion it only remains to point out that matters cannot well be left any longer in their present position, for it is quite clear that section 11 of the new Agricultural Loans Bill is, as it stands, in direct opposition to Sec. 107 of the Bombay Revenue Code. A good deal of stress was laid by the Famine Commissioners on the importance of effecting a precise and permanent understanding on the subject of assessing improvements, and of ratifying such understanding by means of a formal legislative enactment. Legislation is no doubt in the highest degree important if based on sound principles. If not, it is far more mischievous and far reaching in its effects than any executive rules which are susceptible of modification from time to time. If my opinion of the Bombay rules be even approximately correct, it is clear that the Bombay Government has no cause for congratulation in being the only Government which has

as yet legislated on the subject. One other remark on the subject must also in fairness be made. The object of ratifying by law the precise and permanent understanding contemplated by the Famine Commissioners is to protect the material interests of Government and the cultivators. But in order to make such a law really effectual for the protection of the cultivator's interests, it must be capable of being enforced against Government whenever necessary. To enact a law which cannot be so enforced seems to be an act of very doubtful expediency. This, I fear, is much the position of the Bombay law referred to. It cannot possibly be appealed to or enforced against Government in the face of section 4 of the Revenue Jurisdiction Act which declares that

"Subject to the exceptions hereinafter appearing no Civil Court shall exercise jurisdiction as to any of the following matters : —

"(*a*) . . . . . .

"(*b*) Objections—

to the amount or incidence of any Assessment or Land Revenue authorized by Government, or

to the mode of assessment, or to the principle on which such assessment is fixed, or

to the validity or effect of the notification of survey or settlement or of any notification determining the period of settlement."

The proviso to this section 4 of Act X. of 1876 declares that "if any person claim to hold land wholly or partially exempt from payment of Land Revenue under—

(*h*) Any enactment for the time being in force expressly creating an exemption not before existing in favour of an individual or of any class of persons, or expressly confirming such an exemption on the ground of its being shown in a public record or of its having existed for a specified term of years, or

(*i*) . . . . . .

(*j*) . . . . . .

(*k*) . . . . . .

Such claim shall be cognizable in the Civil Courts.

Among the illustrations to (*h*) above quoted No. 5 is as follows :—

"(5.) It is enacted that assessment shall be fixed with reference to certain considerations, and not with reference to others. This is not an enactment creating an exemption in favour of any individual or class ; and no objection to an assessment under such an enactment is cognizable in a Civil Court."

The sections quoted abundantly show that effectual steps have been taken to prevent the possibility of any question being raised to limit the absolute discretion of the Settlement Officer.

Under these circumstances the protection afforded to the cultivator is wholly illusory, and if it be in contemplation to legislate on similar lines for other parts of the Empire it will be well to enquire first how the law stands in each place on the subject of withdrawing all settlement operations from the cognizance of the Civil Court.

If it be the case, as I believe it is, that similar provisions are in force in other parts of India, it should be considered whether any advantage is to be gained by embodying a precise and permanent understanding on the subject of assessing improvements in the shape of law. The only protection which the peasant cultivator asks for is the protection of the civil law of the land ; and as long as the usual civil remedy is withheld, he will be unwilling to risk his capital on the strength of any precise and permanent understanding, however ingeniously expressed, to which he cannot appeal.

APPENDIX.

THE LAND IMPROVEMENT LOANS ACT.

(From the "Bombay Gazette," December 12, 1883.)

The debate in the Viceregal Council on the Land Improvement Loans Bill, which passed through its several stages a few weeks back, was of a very interesting character. The various points which were raised in it related to questions of high State policy on which depended the future of Indian agriculture and the welfare of the millions engaged in it. Whether it was the intention to deal with the subject of agricultural banks, or of the application not merely of State loans, but of private capital, to the improvement of land, at some future period, or only with the question of State loans for the present, the course of the debate showed that our legislators were endeavouring to grapple with some of the highest problems of practical Indian statesmanship. It is an acknowledged fact that the condition of Indian agriculture has been far from satisfactory. Its neglect has been often ascribed to the fact that the State landlord, while exacting every anna of revenue from the soil, has not always—even with the best intentions—treated the tenant so as to encourage him to make improvements, in the full confidence that he would enjoy their fruits without sharing them with the tax collector. The British Government in India can scarcely boast that it has made the Indian ryot grow two blades of grass now where he grew one before. Any effort made to wipe away this reproach must carry the sympathy of every one who wishes well to the people of India and prosperity to its revenues. The Land Improvement Loans Bill is a measure conceived in this spirit, and as such has our hearty approval. Various inquiries have made it tolerably clear that one of the chief causes of unwillingness on the part of the ryot to improve his land is the fear that Government on the expiry of the current settlements would tax such improvements and deprive him of the full benefit of the labour and capital expended on them. This fear has taken a firm hold of his mind, and has deterred him from constructing such works as wells and tanks, which go far in India to protect him from the effects of long-continued droughts. The new measure, therefore, is intended to disabuse the cultivator in

India of this impression so far as improvements made from loans obtained from the State are concerned.

It has been found that loans offered by the State under the Taccavi Acts at present in force all over the country have not been availed of to any considerable extent. The Famine Commission carefully noted this fact, and forcibly pointed out in their Report that no single measure was calculated to afford a better protection against famine than successful undertakings to increase the productive powers of the soil. Among undertakings of this kind in India, the construction of wells, tanks, and other works for the storage, supply, and distribution of water has in all ages been looked upon with favour and approval by the rulers. The Commissioners accordingly urged in their Report the desirability of the Government of India taking such steps as would remove the existing obstacles to the ryots taking full advantage of the proferred help of the State. The subject has had the serious consideration of the Government of India, and the Bill passed in the Viceregal Council is the outcome of the proceedings adopted by the Government on the recommendation of the Famine Commission. In the course of the debate Sir Steuart Bayley described the various steps which the Government of India had taken to carry out the views of the Commission. It appeared from Sir Steuart Bayley's remarks that Mr. Crosthwaite had been consulted on the subject, and that he had drawn up a rough sketch of the lines on which legislation might be based. Mr. Crosthwaite proposed to provide for a registry of all improvements made by ryots during the currency of existing settlements. The value of these improvements was to be settled by a Committee of arbitrators. He proposed to divide improvements into two classes, namely, (1) quasi-permanent improvements of a costly nature, and (2) temporary improvements, partaking more of the nature of reclamations. The first class of improvements he proposed to exempt altogether from assessment ; with respect to the second class, he provided for an exemption for a limited period, say five years, after which the tenant or the author of the improvements was to be reimbursed by being permitted to deduct 6¼ per cent. of the cost from the full assessment of the land. Thus these proposals, without in any way neglecting the interests of the State, leaned on the side of liberality and encouragement to those who made it worth their while to improve the productive powers of the soil by expending capital and labour, whether their own or borrowed, under the belief that they would fully benefit by it. When, however, Mr. Crosthwaite's proposals came to be considered in the Select Committee, they appeared to run counter to the official view, that the Government is a joint proprietor with the landholder, and is by ancient law and custom of India entitled

to a share in the produce of every beegah of land. According to this theory, the total exemption from taxation of permanent improvements would deprive the State of the revenue that would otherwise accrue to it from the land being liable to increased assessment on account of its improved character. The English theory, it is true, permits the tenant to enjoy the full benefit of the improvements introduced by him, and is in this respect opposed to the so-called Indian theory. Mr. Crosthwaite's object was to do that which public policy required to be done in this country, namely, to encourage ryots in the improvement of their land, rather than to aim at the increase of revenue. And Sir Steuart Bayley, to do him justice, made the following admission :— "In this view, as a matter of expediency, I most fully concur. I think it would have been very possible to arrange the two conflicting theories upon some such terms as these, if we had gone on and proceeded to legislate." But his chief objection to Mr. Crosthwaite's proposal was that it was difficult to distinguish between the two classes of improvements ; it was hardly possible to draw a line where the one class ended and the other began. The question, again, was intimately connected with the much larger question relating to the whole principle of resettlement in Northern India, which was at that time under reference to the Secretary of State. In making the reference the Government of India expressed themselves generally in favour of exemption from assessment of improvements by landholders, and the Secretary concurred in the principle in equally general terms. Sir Steuart Bayley, however, further proceeded to inform the Council that the general question, including the special point of assessing improvements, "is now under the consideration of the local Governments." Referring, therefore, to section 11 of the Bill, which, as it originally stood, exempted improvements from taxation, Sir Steuart observed : "When, therefore, section 11 was introduced in Select Committee, I had very great doubts as to whether it ought to be accepted. Not because I doubted the principle of it ; I quite accepted and most strongly endorse the principle that, as a matter of policy, we ought as a rule to secure to the improver the full value of his improvement ; but for the reason that the general question was then under the consideration of the local Governments, and that it appeared to me that modifications might have to be made by each local Government." It also became apparent that if one policy were adopted in respect of improvements made by money borrowed from the State, the policy in regard to improvements made from private capital could not be different. Sir Steuart Bayley's views, however, did not find favour with the majority in the Select Committee. Meanwhile it appeared that even in regard to the general principle of non-

taxation of improvements, that principle, if carried out, would result in a general diminution of assessments and consequent loss to the State, in the case, especially, of waste lands, which, as in the Punjab, might be made irrigable by a slight expenditure of money. The present practice in the Punjab is to give an exemption for twenty years. Under these circumstances the plan recommended to the Legislature was that it was far more important to improve existing cultivation than to bring additional land under plough, and on this principle an amendment to section 11 of the Bill was carried. It was to the effect that where the improvement consisted of the reclamation of waste land or of the irrigation of land assessed at unirrigated rates, the increase might be so taken into account, after the expiration of such period as might be fixed by the rules to be framed by the local Governments with the approval of the Governor-General in Council.

These were the chief points of the debate. Section 11 of the Bill, as it originally stood, exempted all tenants' improvements made with their own or borrowed money. The objection to this was that the provision was too elastic, and that the effect of it would be to cause a loss of revenue to the State, consequent on improvements made with small capital and little labour, as in the case of the reclamation of waste lands. It was, however, admitted both by the Viceroy and Sir Steuart Bayley that in districts where the land was wholly taken up and cultivated, where the population was large and the margin of waste small, it would be better for Government to act upon the broad principle of exemption. The Viceroy was distinctly of that opinion. "I think," His said Excellency, "that if a tenant, by his own exertion, and the expenditure of his own capital, adds to the letting value of my land, I ought, if he leaves his farm, to compensate him for the additional letting value of the land of which I am about to take possession. I think that is a perfectly sound and just principle with respect to land under full cultivation, because although it is, I know, said that there are two factors in the results of all improvement, namely, the expenditure of the tenant's capital and labour and the inherent qualities of the soil, in the case of cultivated land this second factor should not, as it seems to me, be regarded as constituting an appreciable element in the calculation of the value of a tenant's improvements. For the right to enjoy the inherent qualities of the soil is already covered by the payment of his ordinary rent, and the advantage to the letting value of his land arising from his improvements may therefore be treated as resulting only from his expenditure of capital and labour, and may fairly be taken as the measure of the compensation which should be given to him in respect of such improvements when he quits the land." In theory

probably no exception can be taken to the soundness of this doctrine, but the great point is to observe it in practice. It may be admitted that in the case of reclamation of waste land brought about by a small expenditure of capital and labour, it would perhaps not be a wise policy for the State to give up all prospective increases to revenue after the improver has had his fair share of compensation ; but in the case of districts where cultivation has reached almost its extreme limits, and where the improvements were of a solid and permanent character, and had cost a good deal of money to the improver, it was at best doubtful whether section 11 of the Act would stand him in good stead. There are many districts in this Presidency in which the benefits sought to be conferred by section 11 will at best be of a problematical character. At all events they will depend very much upon the view that the settling officer for the time being takes of the nature of the land, and the interpretation he puts upon section 11. The difficulties, at all events, are hardly less formidable than those pointed out in the working out of Mr. Crosthwaite's classification of improvements. On the whole it seems to us that that part of the amendment of Section 11 which has reference to lands in full cultivation will require to be put in force with great care if the object is to give encouragement to land improvement. How far the section will affect this Presidency we will take occasion to consider hereafter.

ASSESSMENT OF IMPROVEMENTS.

(From the "Bombay Gazette," December 29, 1883.)

In the debate in the Viceregal Council on the Land Improvement Loans Bill, the Hon'ble Mr. Hope drew attention to a provision in the Bombay Land Revenue Code which, if literally carried out in course of revision of settlement operations, could not fail to affect in a serious manner the future of agricultural improvements in this Presidency. He remarked that although under the Bombay Code no assessment was to be levied with respect to improvements made during the currency of a settlement, yet proviso (*b*) of section 107 of the Code gave permission to settlement officers to take such improvements into consideration at the time of the revision. That means that settling officers would be perfectly justified in taxing improvements, if they were so minded. Mr. Hope admitted that in districts where cultivation had reached its full limits, where the population was a tax on the resources of the land, and where the land assessment was already heavy, it would perhaps not be

worth the while of the settlement officer to make any increase in the assessment at all. But the right of the State to make such increase must, according to Mr. Hope, be laid down clearly and definitely in the law. Mr. Hope further remarked that some persons might fear that, under the right thus reserved to the State, capital would not be forthcoming for investments in improvements. It was his impression, however, that such a result had not followed in the Bombay Presidency, and that statistics could be given to show that an enormous increase of wells and other similar improvements had taken place under the thirty years' leases. These remarks of Mr. Hope's are likely, we think, to have an important practical bearing upon the action of settlement officers on the one hand and on the ryots' stake in the agricultural improvements on the other in this Presidency. It may therefore be well to see how the facts really stand.

It is needless for us to state that the most ordinary form of land improvement known to ryots in this Presidency is the sinking of wells. But the ryots, fearing that such wells would be assessed at special rates at the time of the next revision, have been always chary of investing their capital in such undertakings. Be it said to the credit of the Bombay Government, however, that they have done much in the past to encourage the sinking of wells by offering to exempt them from assessment. "I think it must be admitted," wrote Sir Barrow Ellis in 1865, "that the taxation of wells not constructed by the State is a deviation from the broad principles of the Bombay Survey. All wells built hereafter by individuals will be free from taxation. It seems hard that wells similarly built by individuals, but before the advent of the Survey, should be placed at a disadvantage, and subjected to heavier taxation for no reason save that their owners were in advance of their neighbours in employing their capital in agriculture." This statement on the part of Sir Barrow Ellis, that all wells built hereafter by individuals will be left untaxed in the future, was embodied in section 30 of Bombay Act I. of 1865. That section provided that such revised settlements should be fixed not with reference to improvements made by the owner or occupants from private capital and resources during the currency of any settlement under the Act, but with reference to general considerations of the value of the land, whether as to soil or situation, prices of produce, or facilities of communication. Thus the tendency of the opinions entertained by the then school of revenue officers was in favour of affording all possible encouragement to the sinking of wells. "There can be no greater inducement," wrote the Government of Bombay on the 8th June, 1866, "to the digging of wells than the exemption of

all wells from assessment. Of course this exemption could not affect retrospectively assessments now being levied, but whenever a revision takes place, the Survey commissioners and superintendents should consider whether the special rates imposed on existing wells may not be got rid of without a great sacrifice of revenue." The Bombay Government of 1865 was not content with a mere expression of these views. It desired that the fullest publicity should be given to its wishes, and accordingly circulars embodying them were sent round by the Commissioners of divisions to the district collectors, and by the district collectors to the mamlutdars ; and in this way the word of Government was pledged to the mass of the peasantry in Gujarat in the north and the Deccan and the Southern Mahratta Country in the south. Personally, too, the district collectors exerted their influence in a similar direction, and encouraged the ryots in the sinking of wells by assuring them that such wells would not be taxed in future. To this circumstance mainly was due the construction of numerous wells in Gujarat and other parts of this Presidency to which Mr. Hope referred in his speech. If the honour and word of Government were not pledged in favour of this exemption, it is ten to one that we should not have witnessed the existence of so many wells. But these liberal counsels did not continue to influence Government for any length of time. On the contrary a retrograde policy seems to have moved the Government about the time the Bombay Land Revenue Code came to be enacted, nine years ago. Section 107, proviso (*b*) of the Land Code laid down that in spite of the exemption provided for in the previous section, nothing in it should be held to prevent a revised settlement being fixed with reference to the value of any natural advantage when the improvement effected consisted only in having created the means of utilizing such advantage. This proviso was in utter dis regard of the views of many experienced district officers, who held that it was a violation of the liberal policy which had received the sanction of the Legislature in Act I. of 1865. Mr. Norman wrote :—" Omit this section. (*a*), (*b*), and (*c*) will lead to endless disputes and litigation." Mr. Monteath " would omit clause (*b*) as likely to interfere with the liberality of the previous section." Mr. Alexander Grey remarked that the section " requires more definiteness. Wells and tanks dug with private capital should be exempted. G. R. 3618 of 14th July, directing that drains, &c., may be constructed with the Collector's permission, and that a special rate may be levied for them, should be legalized, as otherwise no such increase of assessment is allowable during the term of the settlement." The result is that ever since the passing of that provision in the Land Revenue Code, which sets a trap for the

unwary authors of improvements, the ryots in this Presidency have grown more than ever suspicious of the real intentions of Government, and have been slow to invest their capital in wells. The first question that arises in the mind of Ramji bin Raoji, when inclined to sink a well, is whether in the revision survey the settling officer will not come down upon him and say : " You, Ramji, have built a permanent well during the currency of the last settlement, and your field, which has hitherto been assessed at dry crop rates, will be hereafter assessed at garden rates." Ramji has possibly only just succeeded in repaying the money he has borrowed for the purposes of the well, and is only just beginning to obtain any benefit from the improvement he has carried out, when he is called upon to pay to Government an assessment which may vary from Rs. 6 to Rs. 12 per each water-bag, called " mot" in the Deccan and " kos " in Gujarat.

It is strange, however, to find that while the Bombay Land Code thus discourages the sinking of wells, the course adopted by the executive officers in the districts has been in the direction of a liberal treatment. An instance which has just come to our notice aptly illustrates our remark. In Gujarat, where cultivation has, in some districts, reached the extreme limit, the improvements in agriculture have taken the form of wells. These wells are of several kinds. In the first place, there are masonry wells, built at a cost varying from Rs. 500 to Rs. 1,500. These wells are treated as improvements, and as such exempted from present and future assessments. The second class comprises wells which, although of masonry, have not been built up to the top, and are without troughs. Then, again, there are wells built of burnt tiles and mud, known generally by the name of " khundia" wells, which cost from Rs. 200 to Rs. 500 to build. Such wells were hitherto classed as " kutcha" wells, and were subjected to a heavy assessment. Where, however, the money necessary to build a well is not forthcoming the ryots have recourse to unbuilt pits, the sides of which are supported by gabions of wicker-work, grass, &c., on wooden rings, costing altogether from Rs. 60 to Rs. 100. Besides these, there are pits occasionally sunk in the ground without any capital worth naming. The last mode of irrigation to which the ryots have recourse is by means of water-lifts. Hitherto it was the practice of the Survey Department to assess all " kutcha" wells at rates varying from Rs. 6 to Rs. 12. Such " kutcha" wells, however, are seldom made use of by the ryots in the irrigation of valuable crops, such as sugar-cane, tobacco, ginger, plaintains, for the simple reason that there is great risk of their falling in ; they are generally used for the irrigation of dry crops. Considering that upon the success or

failure of such crops depend the real results of the season, an assessment of Rs. 3 or 4 per acre must press very heavily upon the ryots. A cultivator who has no capital for extensive irrigation grows chillies, for instance, in one corner of his field, tobacco in another, brinjals in a third, and so on. The incidence of the well-cess in such a case is crushing. If water facilities were allowed free of charge, there is little doubt that many little crops of vegetables would be raised in ordinary seasons, while in case of deficient rainfall the cereal crop would be saved. Influenced by these considerations, Mr. Sheppard, the Commissioner, N. D., directed last year that all built wells, whether "khandia" or "kutcha," should be treated as "pucka" wells, and exempted from assessment. It is to be hoped that this wise and beneficent action on the part of our Government will not be allowed to be checked by such nice interpretations as the Hon'ble Mr. Hope put on the theoretic rights of Government, and that that course which commonsense and good policy alike have suggested as the one best calculated to promote agricultural improvements in this Presidency will be persevered in, and openly declared. The importance of discussing this question cannot be overrated, when it is borne in mind that the first of the thirty years' settlements in this Presidency will shortly expire in Dholka in Gujarat, and that the whole policy of assessing private property in wells will have to be reconsidered from a practical, business-like point of view.

THE NON-ASSESSMENT OF IMPROVEMENT.

(*From the "Bombay Gazette," January* 1, 1884.)

The following papers have been sent us for publication :—

REVENUE DEPARTMENT,
BOMBAY CASTLE, 10*th November*, 1881.

Letter from the Commissioner in Sind, No. 2202, dated 18th June, 1881.
Joint letter from the Commissioners, Central, Southern, and Northern Divisions, and the Survey and Settlement Commissioner, No. 2725, dated 28th Sept., 1881.
Note by the Commissioner, N. D.

Submitting the report called for by Government Resolution No. 1389 of 8th March, 1881, an extract section 3, Chapter IV., of the Report of the Indian Famine Commission, Part II., regarding Government loans to facilitate land improvement.

RESOLUTION.—Government are unable to see that any discouragement to improvements made by private capital need be caused by section 107, clause (*b*) of the Land Revenue Code. Government are competent at any time to declare how they

interpret that clause, and to notify that it will not be held to apply to any particular class of improvements. Government are now prepared to give a general assurance that clause (*b*) will not be applied to wells dug at the expense of the owner or occupier of the soil. In the same way, in any other specific case, Government will decide, at the request of an applicant for an improvement loan, whether the clause applies to his project or not. Government are also willing to give general application to the two rules as to wells in force in the Deccan and Southern Maratha Country (Nairne's Hand-book, page 1589). The Survey Commissioner may prepare a notification in accordance with the above views, and report whether any modification in the way of greater liberality or security is called for.

REVENUE SURVEY AND ASSESSMENT.

No. 1028.

REVENUE DEPARTMENT,
BOMBAY CASTLE, 25*th February*, 1874.

Read again the following papers :—

Letter from the Survey and Settlement Commissioner, S. D., No. 1900, dated 17th November, 1873, soliciting, with reference to the revision of settlements in the Southern Maratha Country now about to be commenced, a reconsideration of the orders contained in Government Resolution No. 4050, dated 22nd August, 1871, regarding the assessment of well lands. Memo. from the Survey and Settlement Commissioner, N. D., No. 2247, dated 5th December, 1873, submitting remarks on the above.

Memo. from the Revenue Commissioner, S. D., No. 160, dated 15th January, 1874, forwarding the above, and stating that he hopes to submit his views in a few days.

Memo. by the Survey and Settlement Commissioner, S. D., No. 124, dated 26th January, 1874, stating, in reply to a reference made, that no inconvenience will result from the postponement of a decision on the above question, which has no practical bearing on the revision settlements of this year.

Resolution of Government on the above, No. 520, dated 30th January, 1874.

Read also a memo. from the Revenue Commissioner, S. D., No. 304, dated 27th January, 1874, submitting, as promised in his memo. of the 15th idem, No. 160, his views on the letter from the Survey and Settlement Commissioner, S. D., No. 1900, dated 17th November, 1873.

RESOLUTION.—Colonel Anderson requests that the orders of Government in respect to the revision of the assessment on lands irrigated from wells may be reconsidered. He objects to them as involving a needless sacrifice of public revenue.

Those orders are—

1. That in the case of old wells constructed before the first

settlement, in dry and arid districts, all special water assessment should be abandoned, and the maximum jerayet rate alone levied.

2. That in the case of new wells constructed subsequent to the first settlement, the ordinary dry crop rate should be imposed, without any addition whatever on account of the new wells.

3. The question has now been very fully discussed. His Excellency the Governor in Council has no hesitation in reaffirming the second order, which has been approved of by the Secretary of State, which has already been productive of good results in encouraging the construction of new wells, and which is based on the broad and liberal principle laid down in section 30 of the Survey Act, namely, that improvements made during the currency of a settlement are not to be taxed.

4. The opinions that have been elicited during the course of the present correspondence convince Government as to the policy and expediency of the first rule. It was intended in the first instance to be applicable to the drier talukas of the Deccan Collectorates, where the rainfall is, as a rule, light and uncertain. His Excellency the Governor in Council is now pleased to decide that it should be generally adopted in the Deccan and Southern Maratha Country, but that the Survey Commissioners should at their discretion be empowered, in the case of districts where well irrigation has been carried on on an extensive scale, to impose an assessment which should in no case exceed a well assessment previously levied.

5. Boorkies of permanent construction are to be treated as wells. There is no objection to the plan which Colonel Anderson states he has adopted, of classing at a higher rate land within a certain distance from a stream from which water can be obtained by means of a boorkie. The same principle may be adopted in the case of land which is found to derive benefit from its proximity to a tank. This should form part of the regular process of classification, in order that it may be tested by the classing assistants in the same manner as other classification returns.

WELL ASSESSMENT IN THE BOMBAY PRESIDENCY.

(From the "Bombay Gazette," January 3, 1884.)

We published a day or two ago copies of certain Government Resolutions on the non-assessment of wells. Those Resolutions afford a remarkable confirmation of all that we urged in our article on Saturday last. We showed that whereas on the one hand the departmental orders and resolutions of the executive

Government in this Presidency displayed a tendency to liberality by directing the exemption from assessment of wells constructed while the thirty years' leases were running, on the other the effect of the provision embodied in law in section 107 (*b*) of the Bombay Land Revenue Code tended to discourage the sinking of capital in them. And this view was further confirmed by what the Hon'ble Mr. Hope said in the Viceregal Council with regard to the assessability of improvements provided for in that section. We were not alone in holding that view. Of the Resolutions published by us, that dated the 10th November, 1881, indicates that the Famine Commission, of which the Hon'ble Mr. J. B. Peile was a member, held exactly the same view as that to which we gave expression on Saturday. In Section 3, Chapter IV. of their Report, part II. (page 145), the Commissoners observed that "we think it important that a precise and permanent understanding should be come to on the subject, and ratified by law." And it was, we think, because the provision in the Land Revenue Code did not contain such a "precise and permanent understanding on the subject," as was desirable, but, on the contrary, emphasised the "assessability of improvements," that the Commission recommended that rules and orders on the subject should be "ratified by law." No doubt the Bombay Government's Resolution of the 10th November, 1881, conveys an assurance to the holders of wells of the good intensions of our Government. But this is not enough, because, as was urged by the Famine Commission, these departmental orders, resolutions, and rules "have not the force of law." It is scarcely necessary to say that a departmental order or a Resolution of Government is one thing, and a provision embodied in a law quite another. Such orders labour under the disadvantage, to use the words of the Famine Commission, of being subject to retractation and change of view. At best their usefulness to the ryots is liable to be questioned. Who that knows anything of the administrative changes in our Government is not aware of the fact that the orders and resolutions of one Government are frequently upset by those of its successor, rendering a continuity of policy almost impossible?

It is well known that Sir Philip Wodehouse published a Resolution limiting the increase of assessment rates to 30 per cent. in revised settlement operations in certain Deccan districts. But it was never acted upon by Sir Richard Temple, his successor, and it has remained a dead letter ever since. In the matter of Local Funds administration, again, Sir Philip Wodehouse repeatedly sent orders to collectors to spend village local funds for the benefit of the villagers who paid the local cess. But Sir Richard Temple did not agree with this policy, and set aside the orders of his predecessor. If, then, as urged in the Reso-

lution of November, 1881, Government are now prepared to give a general assurance that clause (*b*) of Section 107 of the Land Revenue Code will not be applied to wells dug at the expense of the owner or occupier of the soil, why should not such an undertaking be embodied in the form of law? This would make the understanding precise and permanent. But it appears from this Resolution of November, 1881, that Government still desire to keep to themselves the power at any time to declare how they interpret that clause, from which it is evident that the understanding which the Famine Commissioners would insist upon between Government and the landowners is neither "precise nor permanent," and that it has not the force of law. Seeing that the practice is so uncertain, or at least of doubtful utility, are we to wonder at the backwardness of Ramji bin Raoji to sink his well, or at his fears and doubts as to whether, on the expiration of a term of settlement, he will be allowed to enjoy the whole profits of such improvement? It seems to us that the Government can do nothing better adapted to allay anxiety in the matter, and to set at rest all doubts and uncertainties, than to give their good intentions precision and permanency, and remove all danger of retractation and change of view. By this single act on their part, we venture to affirm, they will do more to encourage the construction of wells in the Presidency than any number of departmental orders and resolutions are likely to do. There is also another doubt entertained by landowners which should be set at rest by law, and that is whether such wells as have been sunk during the currency of the present term of settlement will be exempt from assessment only during the next revision operations and not thereafter. What is needed is to give legal effect to the good intentions of Government in the matter, so as to give an impetus to this most effective means of land improvement in this Presidency.

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